

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation of the
Certification to Conduct Gambling Activities of:)
)
Brinnon Aasted)
Auburn, Washington,)
)
Class III Employee.)

NO. CR 2011-00530

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY
FOR AN ADJUDICATIVE
PROCEEDING**

I.

The Washington State Gambling Commission issued Brinnon Aasted the following certification:¹

Number 69-24986, authorizing Class III Employee activity, with Muckleshoot Casino.

The certification expires on March 21, 2012, and was issued subject to the Class III employee's compliance with state gambling laws and rules and the Muckleshoot Tribal/State Compact.

II.

Dave Trujillo, Deputy Director of the Washington State Gambling Commission, charges the Class III employee with the following violations of the Washington State Gambling Act, 9.46 RCW, WAC Title 230, and the Muckleshoot Tribal/State Compact:

- 1) On March 25, 2011, a Commission Special Agent (agent) was assigned to Mr. Aasted's file to investigate his qualification for continued certification in light of his outstanding court-ordered fines and fees. Mr. Aasted has been certified since 2007 to work at the Muckleshoot Casino. Mr. Aasted is also a Muckleshoot Tribal Member.
- 2) The agent observed that Mr. Aasted failed to pay court-ordered fines and fees, and \$3,696.91 has been sent to collections due to his nonpayment.
- 3) Additional review of Mr. Aasted's certification file showed the following:
 - On March 25, 2010, the agent sent a letter to Marena Cross, Muckleshoot Tribal Gaming Licensing Supervisor, notifying her of Commission staff's concerns regarding Mr. Aasted's unpaid fines and fees. The letter notified Ms. Cross that the Commission was not pursuing administrative action at that time, but encouraged Mr. Aasted to begin complying with his court obligations to "avoid possible administrative action in the future."

¹ The Commission issues Class III Certifications to employees working at Tribal casinos. Certifications allow similar activities as Card Room Employee (CRE) licenses issued to persons working at commercial house-banked card rooms. Class III employees may transfer their certifications to a CRE license and work at commercial card rooms by sending Commission staff a transfer form and the accompanying fee.

- On February 22, 2011, the agent sent Ms. Cross another notification letter regarding Mr. Aasted's increased collection balances. The letter also stated that based on his pattern of criminal history, including his failure to comply with court ordered fines and fees, Mr. Aasted may pose a threat to the effective regulation of gaming and enhance the chances of unfair or illegal practices. Commission staff was also concerned that since Mr. Aasted had failed to comply with a judge's rulings, he may not comply with internal control requirements or adhere to the direction of the Tribal Gaming Agency or the State Gaming Agency² in the future. The purpose of the February 2011 letter was to notify Ms. Cross that in 20 days from the date of the letter, the agent was going to start writing a case report stating why Mr. Aasted may not continue to qualify for certification, and that the agent would recommend revocation of Mr. Aasted's certification.
- 4) On March 15, 2011, the agent spoke to Ms. Cross. Ms. Cross informed the agent that the Muckleshoot Gaming Agency may seek to conditionally certify³ Mr. Aasted.
 - 5) On March 28, 2011, Commission staff received a copy of a letter from Ms. Cross to Mr. Aasted, informing Mr. Aasted that "to avoid any interruption or possible suspension and/or revocation" of his Tribal License, he must take "immediate action" to resolve his court obligations.
 - 6) On April 15, 2011, the agent called Ms. Cross. The agent told Ms. Cross that she was starting her case report regarding Mr. Aasted's outstanding fines and fees. Ms. Cross said that Mr. Aasted had had more than enough time to take care of his obligations. She also told the agent that since Mr. Aasted is a Tribal Member, he receives four per-capita checks per year from the Tribe and also has access to loans through the Tribe. Ms. Cross said that the agent should go forward with her report to recommend revocation of his certification.
 - 7) As a result of his fines and fees being in collections, the court issued Mr. Aasted four Failures to Appear. Through his actions the licensee has demonstrated willful disregard for complying with court orders.
 - 8) Based on the Class III employee/licensee's failure to pay court-ordered fines and fees, he poses a threat to the effective regulation of gaming and enhances the chance of unfair illegal practices. Therefore, the Class III employee has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1).
 - 9) Therefore, under Section V(C) of the Muckleshoot Tribal/State Compact, RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3), and (8), grounds exist to suspend or revoke Brinnon Aasted's certification.

² Washington State Gambling Commission, as referred to in the Muckleshoot Tribal/State Compact, Section II.

³ According to Tribal/State Compacts, Conditional Certification may be granted when an applicant is an enrolled member of the employing Tribe, and does not otherwise qualify for certification. The applicant must meet certain criteria and not pose an appreciable risk to the public or to the gaming operation.

Section V(C) of the Muckleshoot Tribal/State Compact

The State Gaming Agency may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated there under, or for any reason or reasons it deems to be in the public interest. In addition, these reasons shall include, but shall not be limited to when a holder of certification:

(The following subsection applies.)

(1) Is determined to be a person whose prior activities, criminal record, or habits and associations pose a threat to the effective regulation of gaming.

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit

The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties

(The following subsection applies.)

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, WAC Title 230 and the Muckleshoot Tribal/State Compact.

The Class III employee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order REVOKING your certification.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Dave Trujillo, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Deputy Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

Dave Trujillo
DAVE TRUJILLO, DEPUTY DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 2 day of June, 2011.

Michelle M. Pardee
NOTARY PUBLIC in and for the State of

Washington residing at Lacey

My commission expires on 6/16/2013

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 2 day of June, 2011

Marcus Pretell

Communications and Legal Department
Washington State Gambling Commission

